

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

UNITED STATES OF AMERICA,)	CASE NO. 5:19CR00176
)	
Plaintiff)	Judge James S. Gwin
)	
v.)	
)	
SANTOS ALBERT FRANCO MARTINEZ,)	<u>DEFENDANT'S MOTION TO CONTINUE</u>
)	<u>SENTENCING HEARING</u>
Defendant)	
)	

Now comes the Defendant, Santos Albert Franco Martinez, by his undersigned Attorney, John B. Gibbons who respectfully moves this Honorable District Court, to enter an order granting the Defendant a short extension of time of approximately seven (7) days in order to provide Counsel the opportunity to personally review the final version of the Presentence Report with him.

Arguments in favor of the above motion are contained in the attached Brief which is incorporated herein

Respectfully submitted,

/s/ John B. Gibbons

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CERTIFICATE OF SERVICE

I hereby certify that on January 24, 2020 a copy of the foregoing *Defendant's Motion to Continue Sentencing Hearing* was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ John B. Gibbons

John B. Gibbons

Attorney for Defendant Santos Albert Franco Martinez

Brief in Support of Motion

The undersigned Counsel seeks a continuance of the Sentencing Hearing now scheduled for Monday, January 27, 2020 in order to provide Counsel the opportunity to personally review the final version of the Presentence report with Mr. Martinez. The request is based on the below-listed circumstances. The final version of the Martinez Presentence Report was placed on the docket on January 14, 2020.

The undersigned Attorney personally reviewed the preliminary version of the Defendant's Presentence Report with him at the CCA facility. Moreover, Counsel was able to set up a follow up telephone conference with Mr. Martinez in order to further answer any questions that he had and further discuss the contents and implication of the first version of the presentence report. A written response to the assigned Probation Officer was provided.

For the past two weeks Judge Maureen A. Clancy of the Court of Common Pleas, Cuyahoga County, Ohio simultaneously scheduled two separate Aggravated Murder cases, in which Counsel represented separate defendants for jury trial on the same day, January 15, 2020.

The case of State of Ohio v. Rayvon Hill, et al., CR 640674 was scheduled for trial on January 15, 2020. The case, a multiple defendant prosecution wherein my client in that case, Rayvon Hill, was charged with the offense of Murder with firearm specification. Counsel obviously had to prepare in advance in anticipation that one or more of those cases proceeded to trial. That case was ultimately continued by the Court on Wednesday, January 15, 2020 in favor of proceeding to trial on another of my client's cases, State of Ohio v. Daniel Hughes, CR 636849, Court of Common Pleas for Cuyahoga County starting on January 15, 2020. The undersigned Counsel has been continuously engaged in a Jury Trial in the case of State of Ohio v. Daniel Hughes, CR 636849 assigned to the docket of Judge Maureen A. Clancy of the

Common Pleas Court, wherein Mr. Hughes was charged with the offense of Aggravated Murder, with firearms specification. Counsel remains engaged in that trial to date.

In anticipation of the conclusion of that trial, and the Jury receiving their instructions, Counsel contacted the visitation office of CCA in an attempt to set up a contact visit with Mr. Martinez to personally review the final version of the Presentence Report with him.

The undersigned Counsel was informed by the visitation office that neither an in person contact visit, nor a telephone conference call could be set up. Counsel was also informed that even at the earliest a telephone conference call could be set up Tuesday, January 28, 2020 in the afternoon. Obviously, CCA visitation policy does not permit Attorney-client visitation during the evening hours or weekends.

Therefore, in order to provide the Defendant, Mr. Martinez, with the chance to review the final version of the Presentence Report and to provide him with effective assistance of Counsel, the Defendant is requesting that his sentencing scheduled for Monday, January 27, 2020 be continued. Therefore, Counsel moves this Honorable Court to enter an order granting an extension of time for sentencing of Martinez no more than seven (7) days hence.

Respectfully submitted,

/s/ John B. Gibbons

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